

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 473 of 1997

in

SPECIAL CIVIL APPLICATION No. 3399 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE C.K. THAKKER  
and  
MR.JUSTICE S.D. PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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OMPRAKASH C PANCHAL

Versus

UNITED WESTERN BANK LTD  
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Appearance:

MR CL SONI for Petitioner  
MR GIRISH D BHATT for Respondent No. 1  
SERVED for Respondent No. 2  
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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE S.D.PANDIT  
Date of decision: 07/08/97

## ORAL JUDGEMENT

Omprakash C. Panchal, original petitioner in Special Civil Application No. 3399 of 1996 has preferred the present Letters Patent Appeal against an order passed by the learned Single Judge, on February 6, 1997 by which his petition was dismissed.

2. The appellant petitioner has come before this Court by alleging that he was appointed by United Western Bank Limited {"Bank" for short} as a Clerk. He had worked from 27th March, 1985. An order for appointment for a period of 45 days between 3-10-1985 and 16-11-1995 was issued and after the said period, he was retrenched. Even though there were vacancies with the Bank and that the respondent Bank had appointed 29 persons, it had not considered claim of the appellant. He had raised a dispute before the Assistant Commissioner of Labour (C), Ahmedabad requesting him to make a reference to Industrial Tribunal but the prayer was rejected. He has, therefore, preferred Special Civil Application No. 2115 of 1991 in this Court which was allowed on 18th October, 1991 and as per directions of the High Court, (Reference) ITC No. 4 of 1992 was referred to the Central Industrial Tribunal, Ahmedabad but the same was illegally rejected on 6th December, 1995. Consequently, appellant had preferred Special Civil Application No. 3399 of 1996 in this Court.

3. The learned Single Judge by an order dated 6th February, 1997 came to the conclusion that the rejection of the reference by the Industrial Court was proper as the finding of the Industrial Court was that the appellant petitioner had worked only for 45 days for a period running between 3-10-1985 and 16-11-1985 and the claim of the petitioner that he had worked right from 27-3-1985 onwards was not true. The appointment of the petitioner for 45 days was only temporary appointment and that the said appointment was not through regular process of recruitment. Consequently, the action appointment could not amount to retrenchment of the appellant-petitioner.

4. We are taken to the order of the Presiding Officer of the Labour Court as well as the order of the learned Single Judge. After considering the said orders as well as material on record, we are unable to hold that the learned Single Judge had committed any illegality in rejecting the petition filed by the appellant. In our opinion, the Presiding Officer of the Industrial Court had not committed any illegality or irregularity in

rejecting the claim of the petitioner. Petitioner's original appointment was for a period of 45 days and that appointment also was not by regular process of recruitment and that it was a back door entry and as he had worked for only 45 days and that he had also approached before the Industrial Court after more than 4 years after he is discharged, there was no infringement of any statutory provisions, therefore, the order of the learned Industrial Court could not be said to be either perverse or against the evidence on record.

5. We, therefore, hold that the petitioner's petition was rightly rejected by the learned Single Judge and there is no reason to interfere with the said decision of the learned Single Judge. We accordingly dismiss this appeal.

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Prakash\*